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10/706,114	11/13/2003	Yuuji Kitamura	R2184.0270/P270	7707
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DICKSTEIN SHAPIRO LLP 1825 EYE STREET NW Washington, DC 20006-5403			EXAMINER ALUNKAL, THOMAS D	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/706,114

Applicant(s)

KITAMURA, YUUJI

Examiner

Thomas D. Alunkal

Art Unit

2627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 October 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1, 3, 5, 6, 8, 10, 11, 13, 15, 16, 18 and 20-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3, 5, 6, 8, 10, 11, 13, 15, 16, 18 and 20-23 is/are rejected.
- 7) ☒ Claim(s) 24-26 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Response to Arguments***

Applicant's arguments filed 10/12/07 have been fully considered but they are not persuasive.

Regarding Applicant's arguments, beginning on page 10 and continuing on page 11 of Remarks, Applicant argues that, "Tosaki fails to disclose or suggest authorization of a medium based on error information in the manner recited in claim 1." The Examiner respectfully disagrees. Paragraph 0035 of Tosaki recites, "Moreover, the function for protecting the copyright may be more strengthened, if the apparatus is additionally provided with a wobble detecting means for identifying whether the optical disk is writable..." Claim 1 broadly claims reproducing "a kind of error information" in the acquiring which is used for authorization judgment. The type of error information is not further specified in claim 1. Therefore, errors such as focus, tracking, wobble, ect. reproduced from the disc are readable on "a kind of error information". Furthermore, this wobble information is used in conjunction with the protecting judging means of Tosaki to either allow or inhibit the reproduction of data from an optical disc. It is noted that data from the second control data area contains the same information as the first control data area in the case where reproducing first control data area is impossible. Therefore, the Examiner believes all the limitations of claim 1 are met.

On page 11 and continuing on page 12 of Remarks, Applicant argues that, "Tosaki fails to disclose or suggest the authorization step recited in the last paragraph of claim 3." The Examiner respectfully disagrees. Paragraph 0035 of Tosaki recites, "Moreover, the function for protecting the copyright may be more strengthened, if the

apparatus is additionally provided with a wobble detecting means for identifying whether the optical disk is writable, a protecting condition judging means into which reproduced signals are inputted, a disk judging means into which signals are inputted from the wobble detecting means, and an output inhibiting means for inhibiting the output of the reproducing or recording signals from the DVD..." From this passage, it is clear that the wobble signal is used in the authorization judgment, not just for identification. Thus, both first and second control data information and the wobble error signals are used to determine the authorization judgment. Thus, the Examiner believes all the limitations of claim 3 are met.

In response to applicant's arguments of claim 18, the recitation "read-only optical disc drive" has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951). In this case, the structural limitations of the disk drive stand alone.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1,3,5,6,8,10,11,13,15,16,18 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tosaki et al (hereafter Tosaki) (U.S. PgPub 2002/0159360) in view of Inchalik et al (hereafter Inchalik) (US PgPub 2003/0002671).

Regarding Claim 1, Tosaki disclose a medium judgment method which determines authorization of a read-only disc having a read-only area for use in an optical disk drive (Paragraph 36), acquiring a specific information of the medium from an information reproduction area of the read-only area of the medium (see Paragraph 33), determining whether contents of the medium are authorized based on the acquired specific information (see Paragraph 33), permitting running of a starting process of the optical disk drive with the medium when the authorization of the medium is determined

as being correct (see Paragraph 32), and inhibiting running of the starting process of the optical disk drive with the medium when the authorization of the medium is determined as being incorrect (see Paragraph 35), and when the acquisition of the specific information from the medium is impossible, the authorization of the medium is determined based on a kind of the error information obtained in the acquiring step see (Paragraphs 36, 37, and 41 and Figure 5, Elements 109 and 115. *Pickup, Figure 5, Element 104 detects error signals in addition to specific copyright information. Also, see response to arguments above*). Tosaki does not disclose the use of a hybrid disc (i.e. a disc with both read-only and rewritable areas) as the recording medium to be judged in a read-only optical disk drive. In the same field of endeavor, Inchalik discloses a medium judgment method which determines authorization of a hybrid disc (Paragraphs 12,13,14 and Figure 8), wherein the method is being used to read the rewritable storage medium in a read-only optical disk drive (Figure 8, Element 190).

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to provide the authorization medium judgment method of Tosaki to the authorizing hybrid optic disc of Inchalik, motivation being to precisely identify the disk without spoiling its physical format and to provide stronger restraint for preventing the illegal use of the disk at a lower cost (Paragraph 26 of Tosaki).

Regarding Claim 3, Tosaki discloses a medium judgment method which determines authorization of a read-only disc having a read-only area (see Paragraph 23) for use in an optical disk drive (Paragraph 36), acquiring first specific information of the medium from a wobbling groove of the medium (see Paragraph 34), acquiring a

second specific information of the medium from an information reproduction area of the read-only area of the medium (see Paragraph 38), the second specific information being pre-recorded in the information reproduction area when the first specific information is copied (see Paragraph 40), determining whether contents of the medium are authorized based on both the acquired first specific information and the acquired second specific information (see Paragraphs 34 and 35), permitting running of a starting process of the optical disk drive with the medium when the authorization of the medium is determined as being correct (see Paragraph 32), inhibiting running of the starting process of the optical disk drive with the medium when the authorization of the medium is determined as being incorrect (see Paragraph 35), and when the acquisition of the first specific information from the medium is impossible and the acquisition of the second specific information from the medium is possible, the authorization of the medium is determined based on both a kind of the error information obtained in the first acquiring step and the acquired second specific information (see Paragraphs 36, 37, and 41 and Figure 5, Elements 109 and 111. *Here, judgment is based on whether wobble, in both first and second data areas, exists or not, in addition to the error signals disclosed in Paragraph 41. Also, see response to arguments above*). Tosaki does not disclose the use of a hybrid disc as the recording medium to be judged in a read-only optical disc drive. In the same field of endeavor, Inchalik discloses a medium judgment method which determines authorization of a hybrid disc (Paragraphs 12,13,14 and Figure 8), wherein the method is being used to read the rewritable storage medium in a read-only optical disk drive (Figure 8, Element 190).

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to provide the authorization medium judgment method of Tosaki to the authorizing hybrid optic disc of Inchalik, motivation being to precisely identify the disk without spoiling its physical format and to provide stronger restraint for preventing the illegal use of the disk at a lower cost (Paragraph 26 of Tosaki).

Regarding Claim 5, Tosaki discloses when the acquisition of the first specific information from the medium is impossible and the acquisition of the second specific information from the medium is impossible, the authorization of the medium is determined based on both error information obtained in the first acquiring step and error information obtained in the second acquiring step. (see Paragraphs 37 and 41 and Figure 5, Elements 109 and 111. *Here, judgment is based on whether wobble, in both first and second data areas, exists or not, in addition to the error signals disclosed in Paragraph 41).*

Regarding claims 6 and 11, each of these claims contain limitations similar to those in claim 1, and are rejected over the same grounds. It is noted that the program of Tosaki is inherently installed in the hardware of system control circuit (Figure 5, Element 11), which allows for judgment method to be performed.

Regarding claims 8 and 10 and 13 and 15, each of these sets of claims contain limitations similar to those in claims 3 and 5, and are rejected over the same grounds.

Regarding Claim 16, Tosaki discloses an optical disk drive (see Figure 5), which determines authorization of an optical disk having a read-only area (see Paragraph 23), a system control unit (see Figure 5, Element, 111) controlling the entire optical disk drive,



an optical head (see Figure 5, Element 104) irradiating a light beam to the disk and performing reading/writing of information with the disk by the control of the system control unit, a motor rotating the disk (see Figure 5, Element 106), a position control unit (see Figure 5, Elements 105 and 107) performing a position control of the optical head and a rotation control of the motor by the control of the system control unit; the system control unit comprising an acquiring unit (see Figure 5, Elements 104 and 105) acquiring specific information of the disk from an information reproduction area of the read-only area of the disk, a determining unit determining whether contents of the disk are authorized based on the acquired specific information (see Paragraph 35), a permitting unit permitting running of a starting process of the optical disk drive with the disk when the authorization of the disk is determined as being correct (see Paragraph 32), an inhibiting unit inhibiting running of the starting process of the optical disk drive with the disk when the authorization of the disk is determined as being incorrect (see Paragraph 35), and when the acquisition of the specific information from the medium is impossible, the authorization of the medium is determined based on a kind of the error information obtained in the acquiring step see (Paragraphs 36, 37, and 41 and Figure 5, Elements 109 and 115. *Pickup, Figure 5, Element 104 detects error signals in addition to specific copyright information. Also, see response to arguments above).*

Tosaki does not disclose the use of a hybrid disc as the recording medium to be judged in a read-only optical disc drive. In the same field of endeavor, Inchalik discloses a medium judgment apparatus which determines authorization of a hybrid disc

(Paragraphs 12,13,14 and Figure 8), wherein the method is being used to read the rewritable storage medium in a read-only optical disk drive (Figure 8, Element 190).

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to provide the authorization medium judgment method of Tosaki to the authorizing hybrid optic disc apparatus of Inchalik, motivation being to precisely identify the disk without spoiling its physical format and to provide stronger restraint for preventing the illegal use of the disk at a lower cost (Paragraph 26 of Tosaki).

Regarding Claim 18, Tosaki discloses an optical disk drive (see Figure 5), which determines authorization of an optical disk having a read-only area (see Paragraph 23), a system control unit (see Figure 5, Element, 111) controlling the entire optical disk drive, an optical head (see Figure 5, Element 104) irradiating a light beam to the disk and performing reading/writing of information with the disk by the control of the system control unit, a motor rotating the disk (see Figure 5, Element 106), a position control unit (see Figure 5, Elements 105 and 107) performing a position control of the optical head and a rotation control of the motor by the control of the system control unit; the system control unit comprising a first acquiring unit (see Figure 5, Elements 104 and 105) acquiring a first specific information of the disk from a wobbling groove of the disk (see Paragraph 34), a second acquiring unit (see Figure 5, Elements 105 and 107) acquiring a second specific information of the medium from an information reproduction area of the read-only area of the medium (see Paragraph 38), the second specific information being pre-recorded in the information reproduction area when the first specific information is copied (see Paragraph 40), a determining unit determining whether

contents of the disk are authorized based on both the acquired first specific information and the acquired second specific information (see Paragraphs 34 and 35), and an inhibiting unit inhibiting running of the starting process of the optical disk drive with the disk when the authorization of the disk is determined as being incorrect (see Paragraph 35), and when the acquisition of the first specific information from the medium is impossible and the acquisition of the second specific information from the medium is possible, the authorization of the medium is determined based on both a kind of the error information obtained in the first acquiring step and the acquired second specific information (see Paragraphs 36, 37, and 41 and Figure 5, Elements 109 and 111.

*Here, judgment is based on whether wobble, in both first and second data areas, exists or not, in addition to the error signals disclosed in Paragraph 41. Also, see response to arguments above).* Tosaki does not disclose the use of a hybrid disc as the recording medium to be judged in a read-only optical disc drive. In the same field of endeavor, Inchalik discloses a medium judgment apparatus which determines authorization of a hybrid disc (Paragraphs 12,13,14 and Figure 8), wherein the method is being used to read the rewritable storage medium in a read-only optical disc drive (Figure 8, Element 190).

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to provide the authorization medium judgment method of Tosaki to the authorizing hybrid optic disc apparatus of Inchalik, motivation being to precisely identify the disk without spoiling its physical format and to provide stronger restraint for preventing the illegal use of the disk at a lower cost (Paragraph 26 of Tosaki).

Regarding Claim 20, Tosaki discloses when the acquisition of the first specific information from the medium is impossible and the acquisition of the second specific information from the medium is impossible, the authorization of the medium is determined based on both error information obtained in the first acquiring step and error information obtained in the second acquiring step. (see Paragraphs 37 and 41 and Figure 5, Elements 109 and 111. *Here, judgment is based on whether wobble, in both first and second data areas, exists or not, in addition to the error signals disclosed in Paragraph 41).*

Claims 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tosaki et al (hereafter Tosaki) (U.S. PgPub 2002/0159360) and Inchalik et al (hereafter Inchalik) (US PgPub 2003/0002671), as applied to claims 1,3,5,6,8,10,11,13,15,16,18 and 20 above, and further in view of Teramoto (US PgPub 2002/0006094).

Regarding claim 21, Tosaki and Inchalik do not disclose wherein the acquiring step includes issuing a READ TOC command. In the same field of endeavor, Teramoto discloses a reproduction prevention method that uses READ TOC command information as means for determining whether reproduction of disc information is authorized (Figure 2).

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to provide the TOC authorization step of Teramoto to the authorization method of Tosaki and Inchalik, motivation being to prevent the

reproduction of restricted information from an optical disc (Paragraph 0054 of Teramoto).

Regarding claim 22, Tosaki discloses wherein the acquired specific information includes a value of the Last Possible Start Time of Lead-out (Paragraph 0035 where wobble information contains this type of information).

Regarding claim 23, Teramoto discloses wherein the error information includes an error code indicating that the READ TOC command is an illegal request (Figure 2, Element S60 and Paragraph 0046)

#### ***Allowable Subject Matter***

Claims 24-26 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Regarding claim 24, the references taken singularly or in combination fail to disclose the method of claim 3, wherein the step of acquiring the first specific information includes issuing a READ ATIP command.

Claims 25 and 26 are objected to based on their dependency from claim 24.

#### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

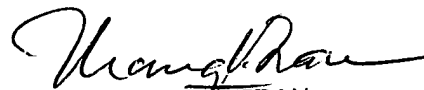
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Akiyama et al (US 6,414,922) disclose an optical recording medium having an area for recording a plurality of recording/reproduction conditions to be used in recording/reproducing apparatuses. Konishi et al. (US 6,285,638) disclose a disk and disk recording apparatus with playback prevention means. Muramatsu et al. (US 5,926,453) disclose an optical disk having first and second recording areas with wobble frequencies that do not interfere with an EFM signal.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas D. Alunkal whose telephone number is (571)270-1127. The examiner can normally be reached on M-F 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wayne Young can be reached on (571)272-7582. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Thomas Alunkal/  
Examiner Art Unit 2627

  
THANG V. TRAN  
PRIMARY EXAMINER